

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

October 30, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Room 300, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy:

Nearly eight years ago, Congress approved the Energy Policy Act of 2005, establishing the first Renewable Fuel Standard ("RFS"). In 2007, Congress significantly expanded the 2005 law when it passed the Energy Independence and Security Act of 2007, which increased the mandate to 36 billion gallons of biofuels by 2022. Unfortunately, despite the best intentions of the RFS, its premise and structure were based on many assumptions that no longer reflect the current market conditions, and the imposition of the 2014 volumes now threatens to cause economic and environmental harm. As Congress continues its bi-partisan work to address these concerns, we are writing to request that the EPA use its authority to adjust the 2014 RFS volumes.

As you are aware, the U.S. corn market has been increasingly volatile since the expansion of the RFS in 2007. This reflects the reality that more than 40 percent of the corn crop now goes into ethanol production, a dramatic rise since the first ethanol mandates were put into place in 2005. While well intentioned, the rigid nature of the federal law has not allowed it to change as new realities emerge in the market place. Ethanol now consumes more corn than animal agriculture, a fact directly attributable to the federal mandate. Corn prices are just one example of the economic harm caused by the RFS.

Due to the dramatic expansion of corn ethanol, volatile corn prices have led to the conversion of millions of acres of sensitive wetlands and grasslands into production. According to the EPA's analysis, the lifecycle emissions of corn ethanol in 2012 were higher than those of gasoline – and will be for years to come. Despite promised environmental benefits when the RFS was implemented, the National Academy of Sciences has noted that overall ethanol production and use lowers air and water quality.

Perhaps the newest challenge is the imposition of the statutory requirement of 18.15 billion gallons of renewable fuels in 2014, of which approximately 14.4 billion gallons will be made up by corn ethanol. In particular, the combination of rising ethanol mandates and declining gasoline demand has exacerbated the onset of the E10 blendwall- the point at which the gasoline supply is saturated with the maximum amount of ethanol that current vehicles, engines, and infrastructure can safely accommodate. The EPA explicitly acknowledged this challenge in its final rule implementing the 2013 volumes—"EPA does not currently foresee a scenario in which the market could consume enough ethanol sold in blends greater than E10, and/or produce sufficient volumes of non-ethanol biofuels to meet the volumes of total renewable fuel and advanced biofuel as required by statute for 2014."<sup>1</sup> We understand that the EPA signaled its intention to address these concerns in the 2014 rulemaking and commend the EPA's willingness to use the authority Congress granted to it when crafting the RFS.

While the blendwall is a pressing issue, the federal government can help avoid a dangerous economic situation by adjusting the normally rigid Renewable Fuel Standard mandate down to align with gasoline market conditions and realities. We therefore urge the EPA to consider a fair and meaningful nationwide adjustment to the ethanol mandate in the Renewable Fuel Standard. Prompt action by the EPA can help to ease short supply concerns, prevent engine damage, save jobs across many U.S. industries, and keep families fed. We strongly urge you to exercise your authority and take the necessary steps to protect American consumers and the economy. Thank you for your immediate consideration of this request.


Sincerely,



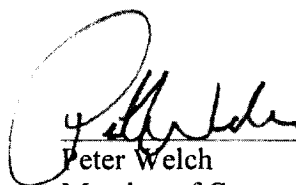
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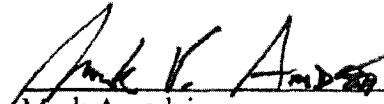
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<sup>1</sup> Regulation of Fuels and Fuel Additives: 2013 Renewable Fuel Standards, 78 Fed. Reg. 49,794, 49,823 (Aug. 15, 2013) (to be codified at 40 C.F.R. pt. 80).



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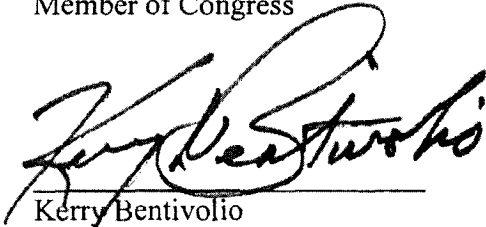
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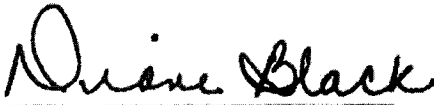
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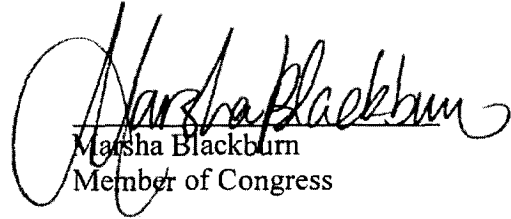
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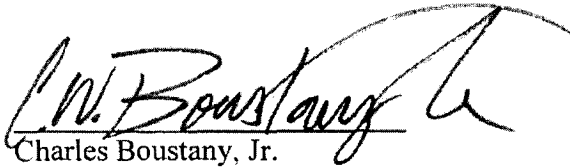
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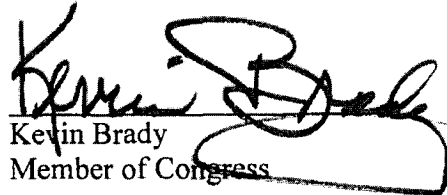
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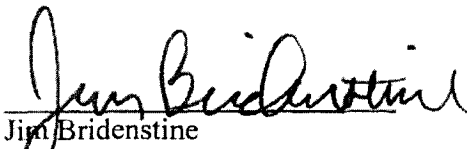
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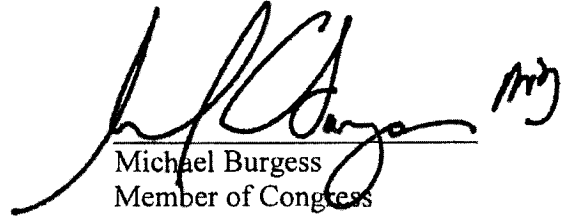
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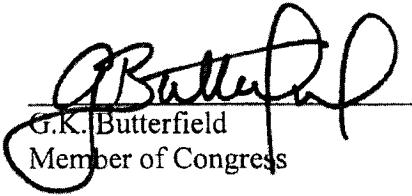
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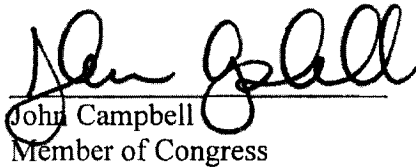
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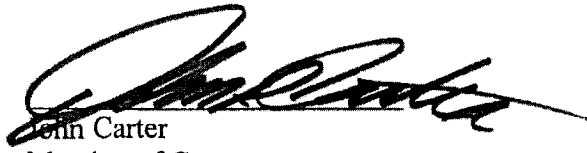
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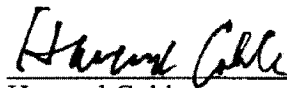
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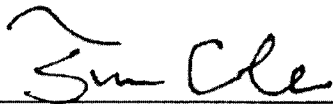
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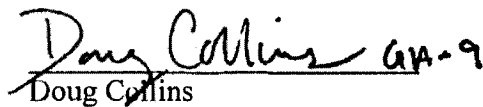
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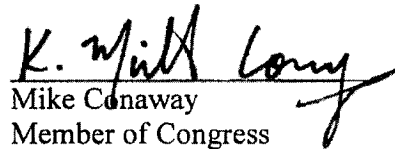
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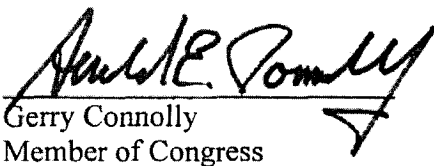
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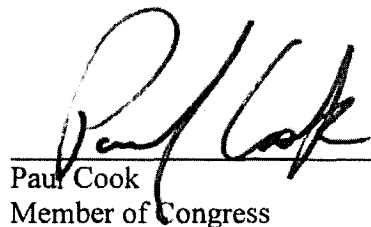


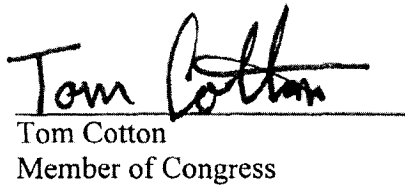
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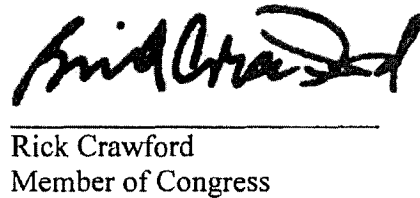


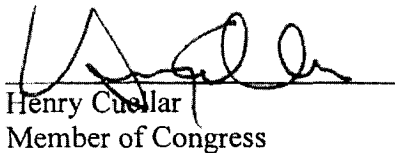
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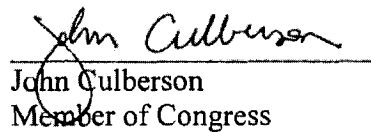
  
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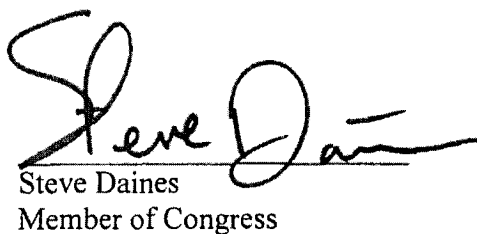
  
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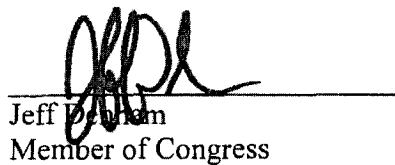
  
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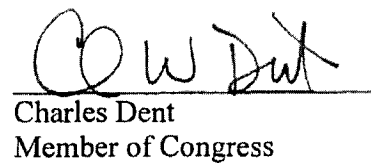
  
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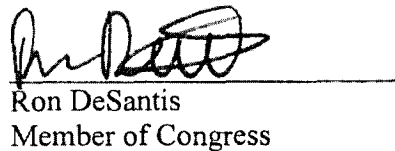
  
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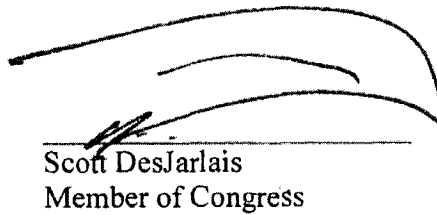
  
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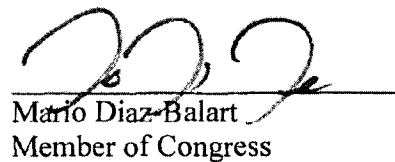
  
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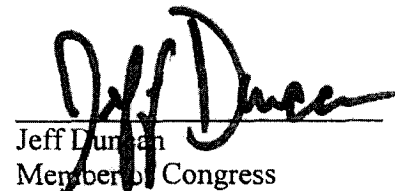
  
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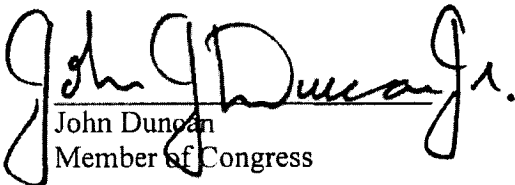
  
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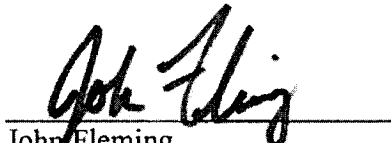
  
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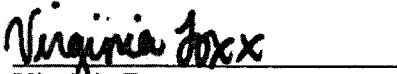
  
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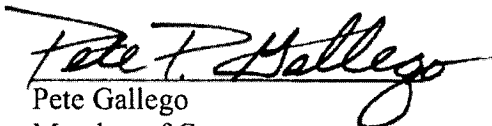
  
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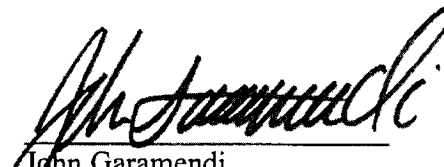
  
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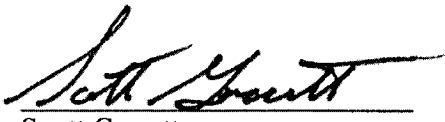
  
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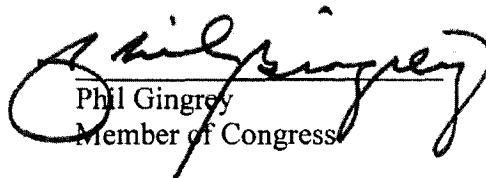
  
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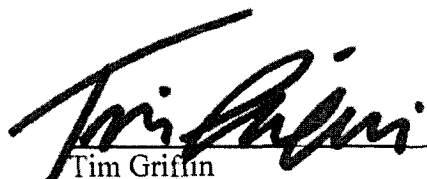
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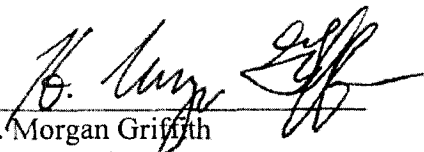
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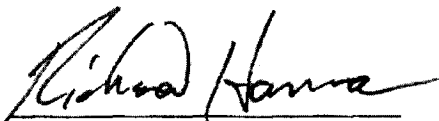
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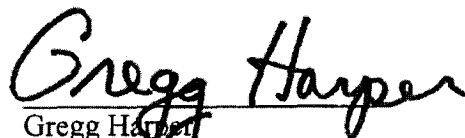
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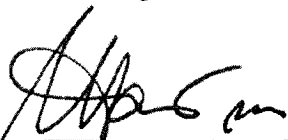
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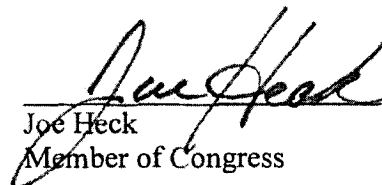
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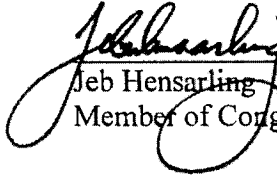
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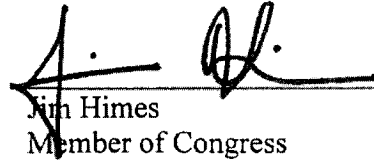


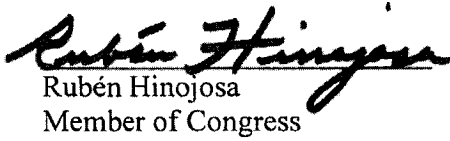
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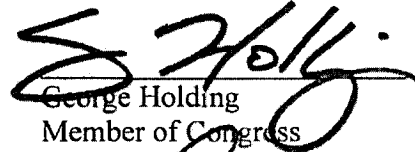


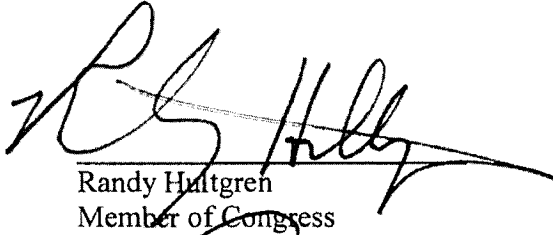
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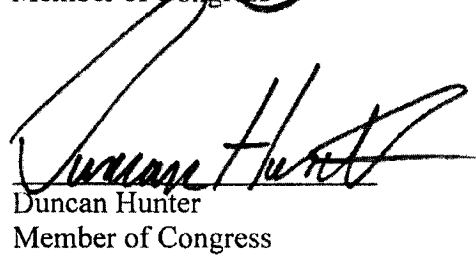
  
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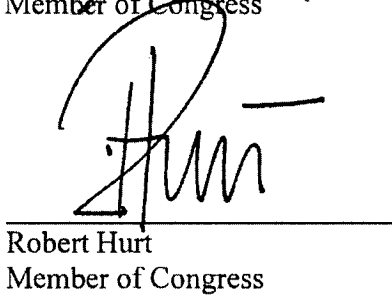
  
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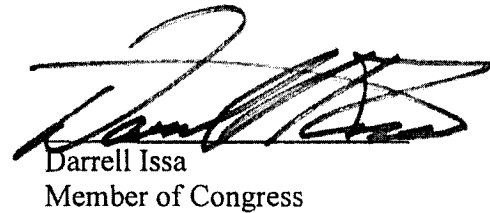
  
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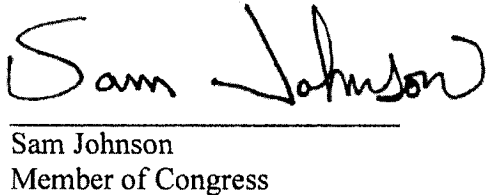
  
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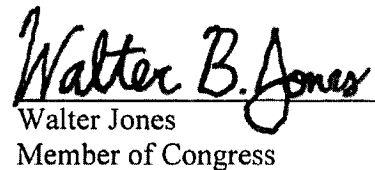
  
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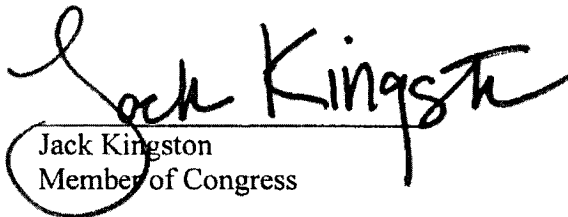
  
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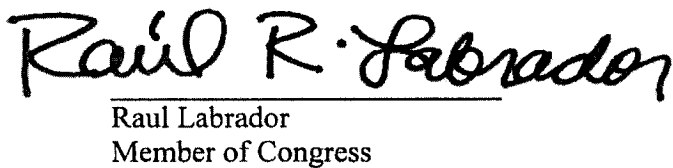
  
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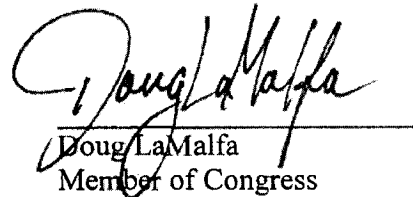
  
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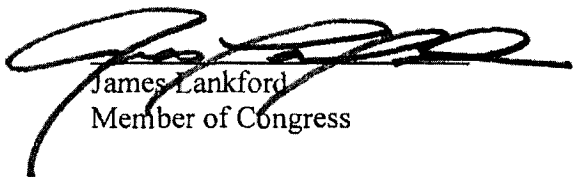
  
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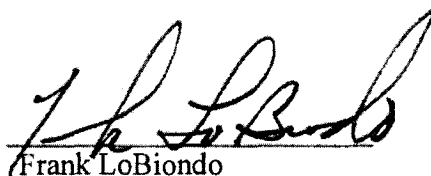
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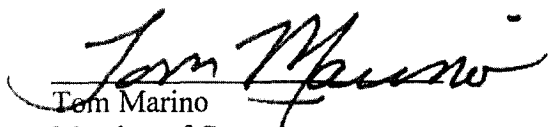
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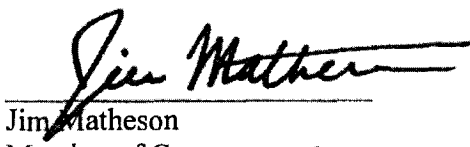
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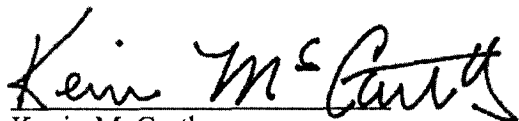
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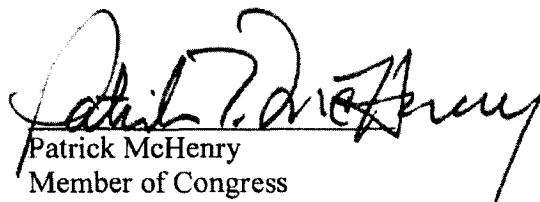
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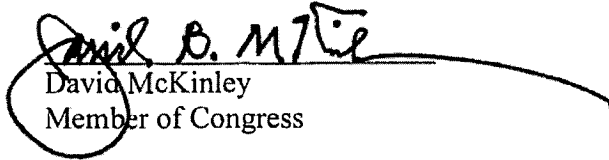
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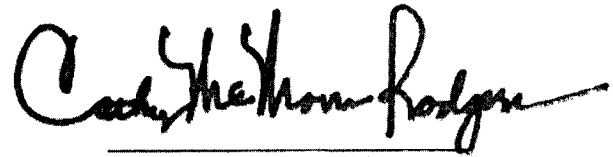



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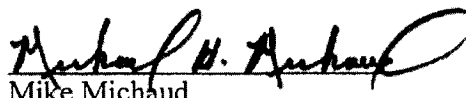
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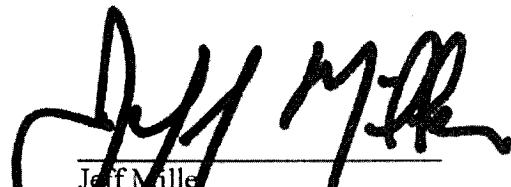
  
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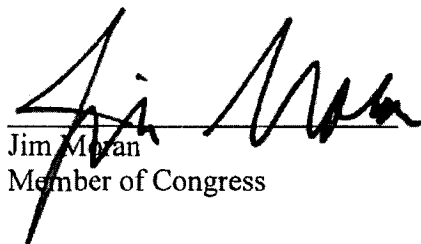
  
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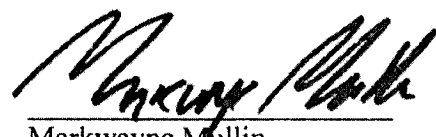
  
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Member of Congress

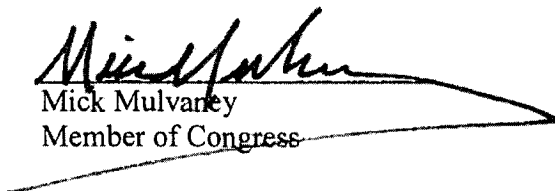
  
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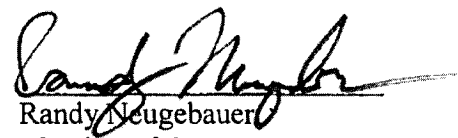
  
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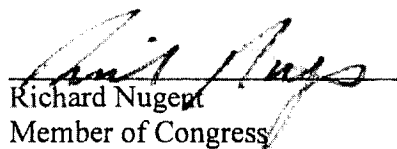
  
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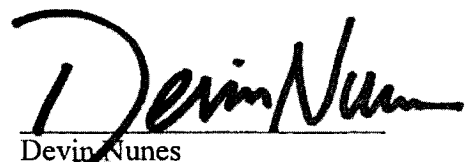
  
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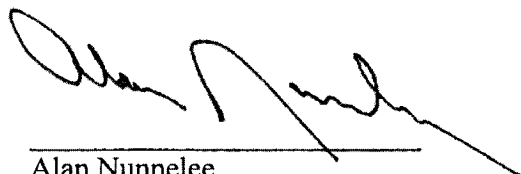
  
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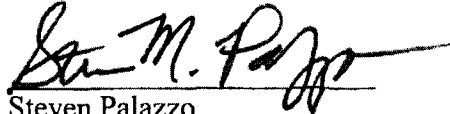
  
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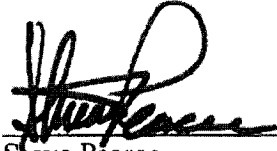
  
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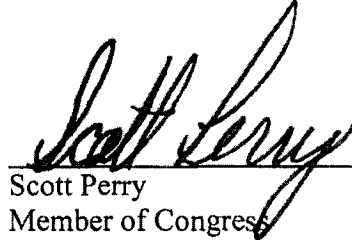
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Steven Palazzo  
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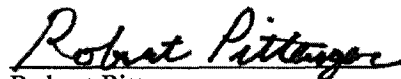
Steve Pearce  
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Scott Perry  
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Chellie Pingree  
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Robert Pittenger  
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Joe Pitts  
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Ted Poe  
Member of Congress



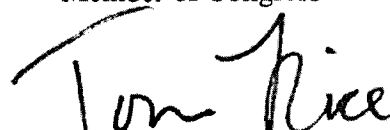
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Trey Radel  
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Tom Reed  
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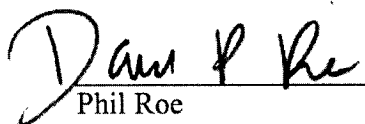
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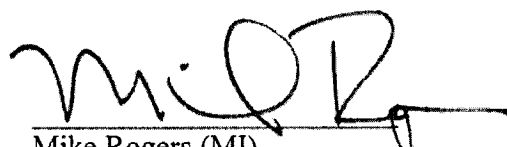



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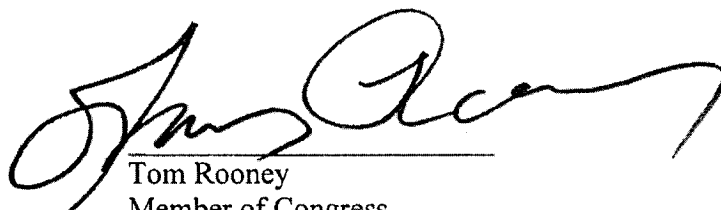


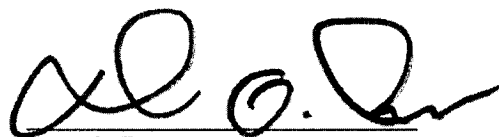
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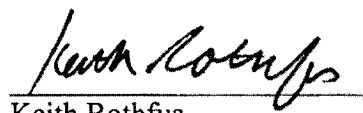
  
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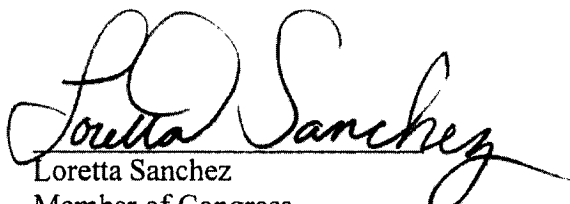
  
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Dana Rohrabacher  
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Tom Rooney  
Member of Congress

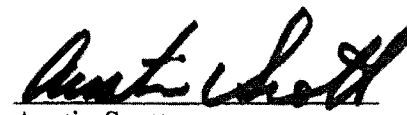
  
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Keith Rothfus  
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Loretta Sanchez  
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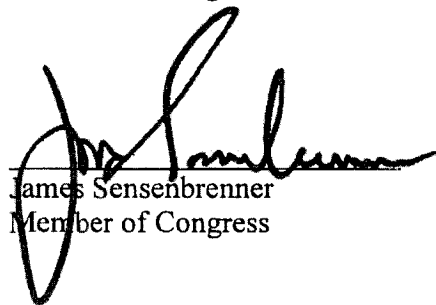
  
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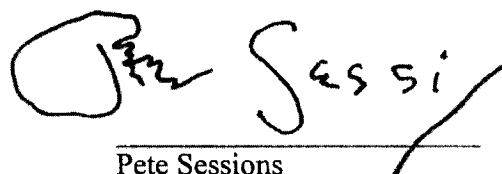
  
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Austin Scott  
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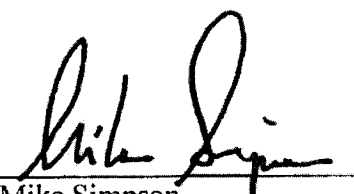
  
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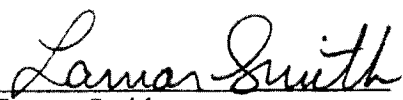
  
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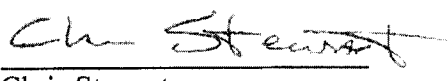
  
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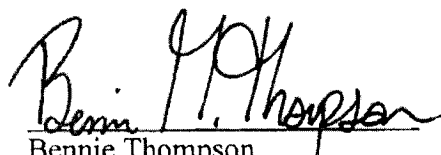
  
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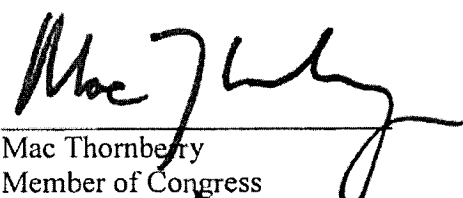
  
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Lamar Smith  
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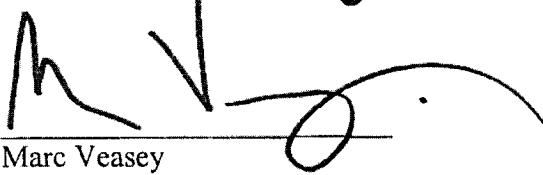
  
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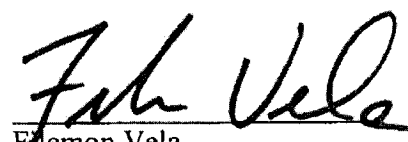
  
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Member of Congress


  
Glenn Thompson  
Member of Congress


  
Mac Thornberry  
Member of Congress

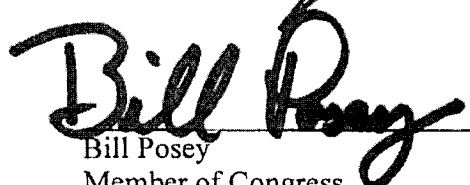
  
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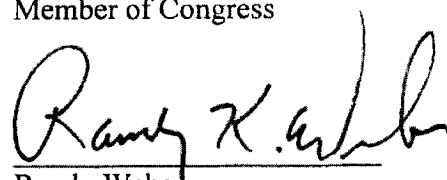
  
Marc Veasey  
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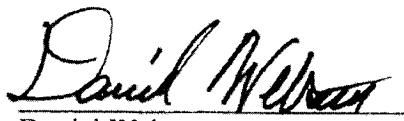
  
Filmon Vela  
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Tim Walberg  
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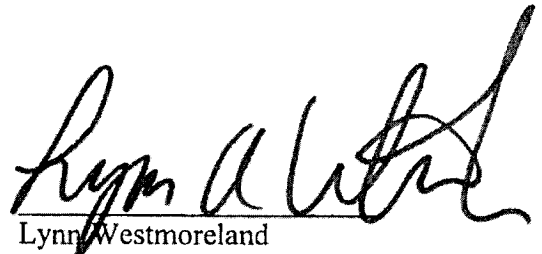
  
Greg Walden  
Member of Congress

  
Bill Posey  
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Randy Weber  
Member of Congress



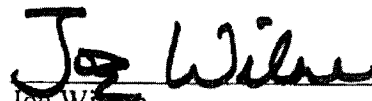
Daniel Webster  
Member of Congress



Lynn Westmoreland  
Member of Congress



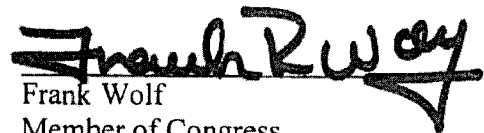
Roger Williams  
Member of Congress



Joe Wilson  
Member of Congress



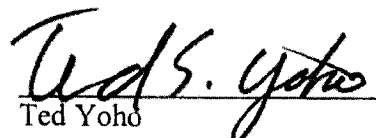
Robert Wittman  
Member of Congress



Frank Wolf  
Member of Congress



Rob Woodall  
Member of Congress



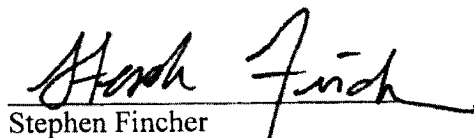
Ted Yoho  
Member of Congress



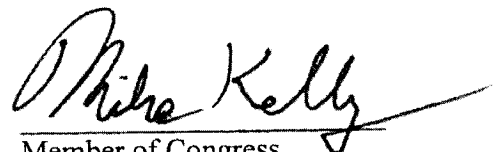
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Member of Congress



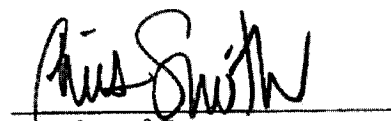
Rodney P. Frelinghuysen  
Member of Congress



Stephen Fincher  
Member of Congress



Member of Congress



Member of Congress

Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 24 2014

OFFICE OF  
AIR AND RADIATION

The Honorable Tom Price  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Price:

Thank you for your letter dated October 30, 2013, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the 2014 volume requirements under the Renewable Fuel Standard (RFS) program. The Administrator has asked me to respond to you on her behalf.

On November 29, 2013, the EPA published in the *Federal Register* a proposed rule that would establish the 2014 RFS volume standards. In developing the proposed volumes, the EPA used the most recent data available and took into consideration multiple factors. Our analysis included an evaluation of both the expected availability of qualifying renewable fuels as well as factors that, in some cases, limit supplying those fuels to the vehicles and equipment that can consume them. On the basis of our analysis, we proposed to reduce the required volumes from statutory levels for 2014 for cellulosic biofuel, advanced biofuel, and total renewable fuel. We proposed to maintain the same volume for biomass-based diesel for 2014 and 2015 as was adopted for 2013, but we have requested comment on whether to raise the biomass-based diesel volume requirement.

I want to emphasize that this is a proposal, and that the EPA has requested comment on many aspects of the proposed rule, including the methodology for determining volumes. The EPA also expects to receive additional data before finalizing the rule. We will take your input under consideration as we, in conjunction with the U.S. Department of Agriculture and the U.S. Department of Energy, work towards finalizing this rule. Your letter has been placed in the rulemaking docket.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", is located below the "Sincerely," text.

Janet G. McCabe  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

May 1, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

The Honorable John M. McHugh  
Secretary  
Department of the Army  
The Pentagon, Room 3E700  
Washington, D.C. 20310

Dear Administrator McCarthy and Secretary McHugh:

We write to express our serious concerns with the proposed rule re-defining the scope of federal power under the Clean Water Act (CWA) and ask you to return this rule to your Agencies in order to address the legal, economic, and scientific deficiencies of the proposal.

On March 25, 2014, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) released a proposed rule that would assert CWA jurisdiction over nearly all areas with any hydrologic connection to downstream navigable waters, including man-made conveyances such as ditches. Contrary to your agencies' claims, this would directly contradict prior U.S. Supreme Court decisions, which imposed limits on the extent of federal CWA authority. Although your agencies have maintained that the rule is narrow and clarifies CWA jurisdiction, it in fact aggressively expands federal authority under the CWA while bypassing Congress and creating unnecessary ambiguity. Moreover, the rule is based on incomplete scientific and economic analyses.

The rule is flawed in a number of ways. The most problematic of these flaws concerns the significant expansion of areas defined as "waters of the U.S." by effectively removing the word "navigable" from the definition of the CWA. Based on a legally and scientifically unsound view of the "significant nexus" concept espoused by Justice Kennedy, the rule would place features such as ditches, ephemeral drainages, ponds (natural or man-made), prairie potholes, seeps, flood plains, and other occasionally or seasonally wet areas under federal control.

Additionally, rather than providing clarity and making identifying covered waters "less complicated and more efficient," the rule instead creates more confusion and will inevitably cause unnecessary litigation. For example, the rule heavily relies on undefined or vague concepts such as "riparian areas," "landscape unit," "floodplain," "ordinary high water mark" as determined by the agencies' "best professional judgment" and "aggregation." Even more egregious, the rule throws into confusion extensive state regulation of point sources under various CWA programs.

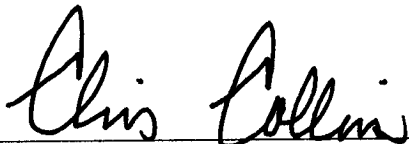
In early December of 2013, your agencies released a joint analysis stating that this rule would subject an additional three percent of U.S. waters and wetlands to CWA jurisdiction and that the rule would create an economic benefit of at least \$100 million annually. This calculation is seriously flawed. In this analysis, the EPA evaluated the FY 2009-2010 requests for jurisdictional determinations – a period of time that was the most economically depressed in

nearly a century. This period, for example, saw extremely low construction activity and should not have been used as a baseline to estimate the incremental acreage impacted by this rule. In addition, the derivation of the three percent increase calculation did not take into account the landowners who – often at no fault of their own – do not seek a jurisdictional determination, but rather later learn from your agencies that their property is subject to the CWA. These errors alone, which are just two of many in EPA's assumptions and methodology, call into question the veracity of any of the conclusions of the economic analysis.

Compounding both the ambiguity of the rule and the highly questionable economic analysis, the scientific report – which the agencies point to as the foundation of this rule – has been neither peer-reviewed nor finalized. The EPA's draft study, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," was sent to the EPA's Science Advisory Board to begin review on the same day the rule was sent to OMB for interagency review. The science should always come before a rulemaking, especially in this instance where the scientific and legal concepts are inextricably linked.

For all these reasons, we ask that this rule be withdrawn and returned to your agencies. This rule has been built on an incomplete scientific study and a flawed economic analysis. We therefore ask you to formally return this rule to your agencies.

Sincerely,




CHRIS COLLINS  
Member of Congress



KURT SCHRADER  
Member of Congress



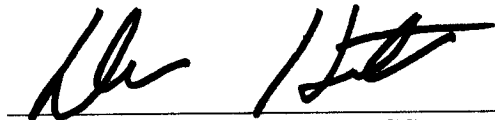
BILL SHUSTER  
Chairman  
House Committee on  
Transportation and Infrastructure



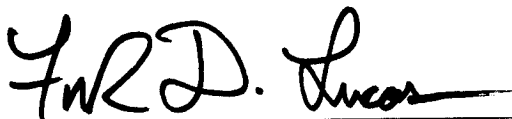
LAMAR SMITH  
Chairman  
House Committee on  
Science, Space, and Technology



FRED UPTON  
Chairman  
House Committee on  
Energy and Commerce



DOC HASTINGS  
Chairman  
House Committee on  
Natural Resources



FRANK LUCAS  
Chairman  
House Committee on Agriculture



COLLIN PETERSON  
Ranking Member  
House Committee on Agriculture

Ed Whitfield

Ken Calvert

Ron Lambert

Jim Mathers

Steve King

JT Smith

Dr Yarny

Dan Riker

John Kotter

Fah Uela

Bill Byrnes M.C.

Ron E. Foster

Vietnam  
Lynn Baker

Adrian Pariter

John G. Manning

John Banner

Walter B. Jones

Mike Simpson

~~Charles B. Akers~~

Bill Owens

Tom Sisk

Jim Sisk W1-05

Robert J. With VA-01

Rat Tiliu

Sydney P. Lummis

J P Lummis

Bazzy

Tim Hurlburt

Alaska Blackburn

Ken Yoder

Julie Wink

Odd Roberts

Jan F. L.

Mark V. Amaro

Van H. J.

Milly P. Pompeo

Joe Baratta

Mike Karanthod

John Henry

Gene R. Tipton

Jim Bidmstein

Long Adams

T. R.

Chuck Fleish

Paul Scott

R. A. Nam

Thomas Massie

Brett Guthrie

Jim Jim M.C.

Ch Stewart

Ann Sch

Larry Bueh

~~Tom~~ Tom

Kay Jones

Bill Fum

16 Mar 1981

Highland

D. Bunker

Bill Caridy

Gregg Harper

Glen GT Thompson

Archie Rye (M-05)

La Van

Jayong

Vicky Hartzler

Lynn Jenkins

Ken Cane

Gene Womack

Roger Williams

Jaime Herrera Beutler

Terri Sewell

Tim G.P.L. (AR-02)

Fred R. Wenzel

A.P.O.

Sam Schuyler

Alan Sander

Ronald Nyebo

Dilly Song

Susan W. Brooks

Mark Kelly

J. John

Bill Johnson

Andreas

Bob Huizenga

Miss Mula

Sc-5

for AA

Andy Byn

Star

Ken A. Kibbe

Raul R. Labrador

Handmaid

Will

Will Sengat

R. Woodall

CPH

Duane Black

Mo Brooks

B

Kerry W. Smith

Gene Jensen

Ch. Bondary

Nick Stapp

John Culberson

Ed. M. Bilinski

Luke Messer

Mark Wayne Mullin

Pat Skyles

Don B. Agel

Ch. Jensen

Hunt

Sam Johnson

Mark Skyles

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CE W. Ditt

Gene Krystas

Jeffrey Jensen

Tom Perkins

Tom Rice

John H. H. 11-03

John H. 11-03

Robert Pittenger

Pete Olson

Pat H.

H. Viny

S. Holby

Rene J. H.

Kevin M. Cant

Virginia Cox

Mar 7/11

Kevin E. Paul

Thomas Eric

Erik Paulsen

Joe Heck

John E.

Tom Marino

Darin Noveck

Michael A. Armon

K. M. Long

Jim G.

St. Chab

Rubin Hongoria

Greg Walden

Howard Cobb

Ja Borton

Frank R. Wiley

R. Raskin

Kerry Bestwick

Cathy McNamee

Paul Cook

Shane R. Lettice

Jim Rahall

Joe Wilson

Scott Smith

Michael R. Jones

Angela Miller

~~\_\_\_\_\_~~

Patrick J. McHenry

Howard E. Burt McCon

Member	Party	District
Don Young	R	AK-AL
Bradley Byrne	R	AL-1
Martha Roby	R	AL-2
Mike Rogers	R	AL-3
Robert Aderholt	R	AL-4
Mo Brooks	R	AL-5
Spencer Bachus	R	AL-6
Terri Sewell	D	AL-7
Rick Crawford	R	AR-1
Tim Griffin	R	AR-2
Steve Womack	R	AR-3
Tom Cotton	R	AR-4
Paul Gosar	R	AZ-4
Matt Salmon	R	AZ-5
David Schweikert	R	AZ-6
Trent Franks	R	AZ-8
Doug LaMalfa	R	CA-1
Jeff Denham	R	CA-10
Jim Costa	D	CA-16
David Valadao	R	CA-21
Devin Nunes	R	CA-22
Kevin McCarthy	R	CA-22
Howard "Buck" McKeon	R	CA-25
Gary Miller	R	CA-31
Tom McClintock	R	CA-4
Ken Calvert	R	CA-42
Dana Rohrabacher	R	CA-48
Darrell Issa	R	CA-49
Paul Cook	R	CA-8
Scott Tipton	R	CO-3
Cory Gardner	R	CO-4
Doug Lamborn	R	CO-5
Mike Coffman	R	CO-6
Jeff Miller	R	FL-1
Rich Nugent	R	FL-11
Gus Bilirakis	R	FL-12
Tom Rooney	R	FL-17
Steve Southerland	R	FL-2
Mario Diaz-Balart	R	FL-25
Ileana Ros-Lehtinen	R	FL-27
Ted Yoho	R	FL-3
Ron DeSantis	R	FL-6
John Mica	R	FL-7
Jack Kingston	R	GA-1
Paul Broun	R	GA-10
Phil Gingrey	R	GA-11

John Barrow	D	GA-12
David Scott	D	GA-13
Tom Graves	R	GA-14
Sanford Bishop	D	GA-2
Lynn Westmoreland	R	GA-3
Tom Price	R	GA-6
Rob Woodall	R	GA-7
Austin Scott	R	GA-8
Doug Collins	R	GA-9
Tom Latham	R	IA-3
Steve King	R	IA-5
Raul Labrador	R	ID-1
Michael Simpson	R	ID-2
William Enyart	D	IL-12
Rodney Davis	R	IL-13
Randy Hultgren	R	IL-14
John Shimkus	R	IL-15
Adam Kinzinger	R	IL-16
Aaron Schock	R	IL-18
Peter Roskam	R	IL-6
Jackie Walorski	R	IN-2
Marlin Stutzman	R	IN-3
Todd Rokita	R	IN-4
Susan Brooks	R	IN-5
Luke Messer	R	IN-6
Larry Bucshon	R	IN-8
Todd Young	R	IN-9
Tim Huelskamp	R	KS-1
Lynn Jenkins	R	KS-2
Kevin Yoder	R	KS-3
Mike Pompeo	R	KS-4
Ed Whitfield	R	KY-1
Brett Guthrie	R	KY-2
Thomas Massie	R	KY-4
Hal Rogers	R	KY-5
Andy Barr	R	KY-6
Cedric Richmond	D	LA-2
Charles Boustany	R	LA-3
John Fleming	R	LA-4
Vance McAllister	R	LA-5
Bill Cassidy	R	LA-6
Andy Harris	R	MD-1
Dan Benishek	R	MI-1
Candice Miller	R	MI-10
Kerry Bentivolio	R	MI-11
Bill Huizenga	R	MI-2
Justin Amash	R	MI-3

Dave Camp	R	MI-4
Fred Upton	R	MI-6
Tim Walberg	R	MI-7
Mike Rogers	R	MI-8
John Kline	R	MN-2
Erik Paulsen	R	MN-3
Michele Bachmann	R	MN-6
Collin Peterson	D	MN-7
Ann Wagner	R	MO-2
Blaine Luetkemeyer	R	MO-3
Vicky Hartzler	R	MO-4
Sam Graves	R	MO-6
Billy Long	R	MO-7
Jason Smith	R	MO-8
Alan Nunnelee	R	MS-1
Bennie G. Thompson	D	MS-2
Gregg Harper	R	MS-3
Steven Palazzo	R	MS-4
Patrick McHenry	R	NC-10
Mark Meadows	R	NC-11
George Holding	R	NC-13
Renee Ellmers	R	NC-2
Walter Jones	R	NC-3
Virginia Foxx	R	NC-5
Howard Coble	R	NC-6
Mike McIntyre	D	NC-7
Richard Hudson	R	NC-8
Robert Pittenger	R	NC-9
Kevin Cramer	R	ND-AL
Lee Terry	R	NE-2
Adrian Smith	R	NE-3
Scott Garrett	R	NJ-5
Steve Pearce	R	NM-2
Mark Amodei	R	NV-2
Joe Heck	R	NV-3
Michael Grimm	R	NY-11
Chris Gibson	R	NY-19
Peter King	R	NY-2
Bill Owens	D	NY-21
Richard Hanna	R	NY-22
Tom Reed	R	NY-23
Chris Collins	R	NY-27
Steve Chabot	R	OH-1
Michael Turner	R	OH-10
Patrick Tiberi	R	OH-12
David Joyce	R	OH-14
Steve Stivers	R	OH-15

Jim Renacci	R	OH-16
Brad Wenstrup	R	OH-2
Jim Jordan	R	OH-4
Robert Latta	R	OH-5
Bill Johnson	R	OH-6
Bob Gibbs	R	OH-7
Jim Bridenstine	R	OK-1
Markwayne Mullin	R	OK-2
Frank Lucas	R	OK-3
James Lankford	R	OK-5
Greg Walden	R	OR-2
Kurt Schrader	D	OR-5
Tom Marino	R	PA-10
Lou Barletta	R	PA-11
Keith Rothfus	R	PA-12
Charlie Dent	R	PA-15
Joe Pitts	R	PA-16
Tim Murphy	R	PA-18
Mike Kelly	R	PA-3
Scott Perry	R	PA-4
Glenn 'GT' Thompson	R	PA-5
Jim Gerlach	R	PA-6
Patrick Meehan	R	PA-7
Mike Fitzpatrick	R	PA-8
Bill Shuster	R	PA-9
Mark Sanford	R	SC-1
Joe Wilson	R	SC-2
Jeff Duncan	R	SC-3
Mick Mulvaney	R	SC-5
Tom Rice	R	SC-7
Kristi Noem	R	SD-AL
Phil Roe	R	TN-1
John J. Duncan, Jr.	R	TN-2
Chuck Fleischmann	R	TN-3
Scott DesJarlais	R	TN-4
Diane Black	R	TN-6
Marsha Blackburn	R	TN-7
Stephen Fincher	R	TN-8
Louie Gohmert	R	TX-1
Michael McCaul	R	TX-10
K. Michael Conaway	R	TX-11
Kay Granger	R	TX-12
Mac Thornberry	R	TX-13
Randy Weber	R	TX-14
Ruben Hinojosa	D	TX-15
Bill Flores	R	TX-17
Randy Neugebauer	R	TX-19

Ted Poe	R	TX-2
Lamar Smith	R	TX-21
Pete Olson	R	TX-22
Pete Gallego	D	TX-23
Kenny Marchant	R	TX-24
Roger Williams	R	TX-25
Michael Burgess	R	TX-26
Blake Farenthold	R	TX-27
Henry Cuellar	D	TX-28
Sam Johnson	R	TX-3
John Carter	R	TX-31
Pete Sessions	R	TX-32
Marc Veasey	D	TX-33
Filemon Vela	D	TX-34
Steve Stockman	R	TX-36
Ralph Hall	R	TX-4
Jeb Hensarling	R	TX-5
Joe Barton	R	TX-6
John Culberson	R	TX-7
Kevin Brady	R	TX-8
Rob Bishop	R	UT-1
Chris Stewart	R	UT-2
Jason Chaffetz	R	UT-3
Jim Matheson	D	UT-4
Robert Wittman	R	VA-1
Frank Wolf	R	VA-10
Scott Rigell	R	VA-2
J. Randy Forbes	R	VA-4
Robert Hurt	R	VA-5
Bob Goodlatte	R	VA-6
Morgan Griffith	R	VA-9
Jaime Herrera Beutler	R	WA-3
Doc Hastings	R	WA-4
Cathy McMorris Rodgers	R	WA-5
Dave Reichert	R	WA-8
Paul Ryan	R	WI-3
Jim Sensenbrenner	R	WI-5
Tom Petri	R	WI-6
Sean Duffy	R	WI-7
Reid Ribble	R	WI-8
David McKinley	R	WV-1
Shelly Moore Capito	R	WV-2
Nick Rahall	D	WV-3
Cynthia Lummis	R	WY-AL



JUN 09 2014



The Honorable Chris Collins  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Collins:

Thank you for your May 1, 2014, letter cosigned by 230 other Members of the House of Representatives to the Department of the Army and the U.S. Environmental Protection Agency regarding the agencies' proposed rulemaking to clarify the term "waters of the United States." We are responding on behalf of the Secretary of the Army John M. McHugh and EPA Administrator Gina McCarthy. We understand your concerns and look forward to working with you and with the American public to respond to questions and comments about the agencies' joint rulemaking.

Your letter raises specific questions about the agencies' proposed rule clarifying the regulatory definition of "waters of the United States." As your letter effectively recognizes, this rule is important because it establishes the geographic scope for all Clean Water Act (CWA) programs. The agencies' primary goal in developing the proposed rule is to clarify protection under the CWA for streams and wetlands that form the foundation of the nation's water resources. We believe the proposed rule is fully consistent with the CWA, provides needed clarity, and is based on the best-available science.

We want to emphasize that the rule currently undergoing public review is a proposal. Consistent with the provisions of the Administrative Procedure Act, we will carefully evaluate all public comments received on the proposed rule, including yours, and make necessary changes before the rule is made final. This transparent public process will help to assure the final rule provides the clarity, certainty, and consistency the public demands and to make all provisions of the final rule fully consistent with the law and science, including decisions of the Supreme Court.

It is also important to recognize that the proposed rule would not expand the historic scope of the CWA, nor cover any types of waters not previously subject to the Act in the 1970s, 1980s and 1990s. We agree that Supreme Court decisions since 2001 have resulted in reducing the scope of waters that may be protected and we have worked hard to reflect these changes in the proposed rule. The result of this rulemaking will be to reduce the geographic scope of waters protected by the CWA compared to the rule it replaces. In addition, the CWA defines "navigable waters" as the waters of the United States. The courts, including the Supreme Court, have consistently found the jurisdiction of the CWA extends beyond waters deemed to be navigable in fact. In *United States v. Riverside Bayview*, 474 U.S. 121 (1985), for example, the Supreme Court ruled unanimously that the government has the power to control intrastate wetlands as waters of the United States.

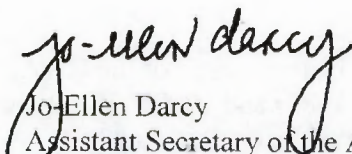
It is also important to note that the proposed rule includes definitions for terms such as "riparian area" and "floodplain," and does not regulate uplands in any riparian area or floodplain. The proposed rule also specifically solicits comment on such terms and whether the rule text should provide better specificity with regard to the application of the terms in order to improve clarity and certainty. Additionally, the proposed rule specifically states that certain ditches, artificially irrigated areas that would revert to uplands if irrigation were ceased, and artificial lakes and ponds created in uplands are excluded from CWA jurisdiction. It also provides that water-filled depressions created as a result of construction activity, pits excavated in uplands for fill, and treatment ponds or lagoons will not be subject to CWA jurisdiction.

The economic analysis that supports the proposed rule concludes that the overall benefits of the proposed rule would exceed its costs. This analysis, which is publicly available, was based on the best-available information at the time the rule was proposed regarding the rule's effect on all CWA programs. We welcome public comments on how the analysis could be improved to ensure it effectively evaluates the effects of the proposed rule.

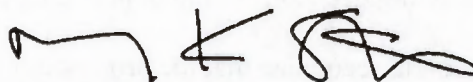
Finally, your letter expresses concerns regarding how the agencies plan to use the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence." This report presents a review and synthesis of more than 1,000 pieces of peer reviewed scientific literature, and is currently undergoing independent peer review by the EPA's Science Advisory Board (SAB). As the agencies have emphasized, the proposed rule will not be finalized until the SAB review is complete and the EPA develops a final version of the scientific assessment based on SAB and public input.

Thank you again for your letter. An identical copy of this response has been sent to the other signers of your letter. We look forward to the ongoing input from you and your constituents during the public comment period on the proposed rule. If you have any questions, your staff may contact Mr. Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at [charles.r.smith567.civ@mail.mil](mailto:charles.r.smith567.civ@mail.mil) or (703) 693-3655, or Mr. Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,



Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)  
Department of the Army



Nancy K. Stoner  
Acting Assistant Administrator  
U.S. Environmental Protection Agency

**Congress of the United States**  
**Washington, DC 20515**

May 22, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to request that the Environmental Protection Agency provide a sufficiently long comment period on its upcoming regulation of greenhouse gases from existing power plants. The Agency should provide at least a 120 day comment period, given the significant impact this rule could have on our nation's electricity providers and consumers, on jobs in communities that have existing coal-based power plants, and on the economy as a whole.

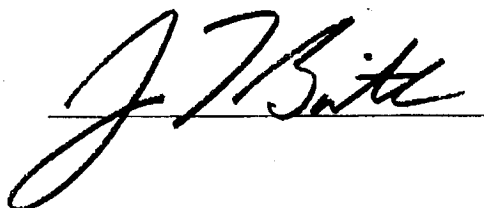
The upcoming proposal will necessarily be more complex for the industry to deal with than the proposal for new plants, and stakeholders will need time to analyze the rule and determine its impact on individual power plants and on the electric system as a whole. This analysis will be no small undertaking, especially since this will be the first ever regulation of greenhouse gases from existing power plants. Additionally, since the EPA extended the original 60 day comment period for the new plant proposal, it makes sense to provide at least the same timeline for the existing plant rule.

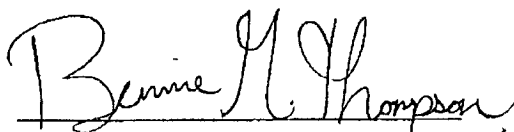
Affordable and reliable electricity is essential to the quality of life to our constituents. While we can all agree that clean air is important, EPA has an obligation to understand the impacts that regulations have on all segments of society. As one step toward fulfilling this obligation, we urge you to provide for a comment period of at least 120 days on the forthcoming new source performance standards for existing coal-based power plants.

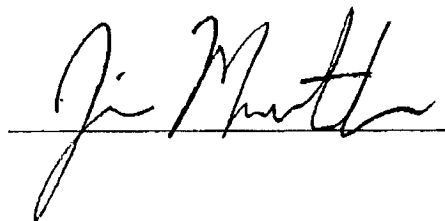
Thank you for your consideration of this request.

Sincerely,









Robert Adenholz

De Yung

Jim Matheson  
CPL

Mark B. Shuman

Suzanne Brooks

Kyle S. Jr

Ron Barber

Mac J. Lundy

John Barrow

Shane R. Pettin

Rodney Davis

Raul R. Labrador

Trey Gowdy

Jenni Sewell

Darin Noma

Andre Brucke

No 777

Alan Wagner

Jackie Walveski

K. M. Long

Nickie M. Fortye

Hy Cullen

Frankie Banks

Tim Walberg

Paul Ben

John Kline

~~Bob [unclear]~~

Mike Colman

Q. W. Dutt

Sam Cole

Tim Peters

Chris Cullens

Markwayne Mullin

J. Magnifico

Jayong

A. Bucher IN-08

Paul Webster

Chui Buxton

Eric Evers

Vicky Hartman

Rita Ay

Conrad Mylon

Christi Noem<sup>(SD)</sup>

Jim Ha

J.P. Cing

Mike Hake

Tri Allen

Midland

Win Zempert

Bob Woodall

Sam

Keith Little

Jeff Fortenberry

Jim Jackson

Orlene Black

Dave Loeback

Billy Long

Ed Palmiter

Sam Lee

Alan Ford

C.W. Bonstetter

Andy Bone

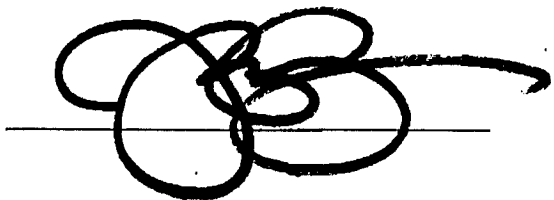
Alfred Lee Ford

Randy K. Weller

Quaker Scott

Ted S. Geko

Oliver GT Thompson  
Hunt



J. L. Z.

Bill Gray M.C.

D. C. All

Kim Schneider

Don Benish

W. J. Pomeroy

Tom Huelstberg

Thomas Biese

Robert Luttinger

Mike Simpson

John IL-15

Joe Wilber

Rubin Hengosa

Ken Terry NE-2

Paul M

Don P. Jew

Don D. H. H.

Bill Huizenga

Ch. K.

Frank R. W. H.

Steve W. H.

Mr. J. H. H.

Lynne Jenkins

Ken Crum

W. J. H.

Pat Tiller

J. Rody Forbes

Vern Buhner

James Buhner

Michael R. Jensen

Scott Garrett

Stu Chabot

Wm. Lacy Clay

Butterfield

Willi Pen

Howard Coble

Danny H. Davis

Adrian Smith

Tom Sisk

Virginia Fox

Ernest Penner

Steve King

Amford D. Bishop Jr.

Gene Green

Steve Chaffetz

Doug Lamborn

Denny

Richard Buchanan

Lynn A. Woolh

Steve Pearce

Blaine Luetken

Sen. M. B. B. B.

Mike Rahall

Frank D. Lucas

Jack Kingston

Shelley Moore Capito

Walter B. Jones

Tim Wirth

Rob Bly

Long Adams

Steve Di

Angela

Chris

Mike Kozak

Ch Stewart

Brett Hathorn

Tom Mann

Joyce Beatty

Jackie Walveski

Renee Elie

Fah Vele

Hath Pether

Paul A. Ghar

John Messer

Jeff Durr

Shirley Peery

Cynthia D. Lummis

June V. Amorse

Martha Bloom

Constance Hunt

Scott R. Tipton

Tim Beath

Al G. Orr

Odd Pedersen

Chuck Flinn

John Rizzo

Y. K. Kilgaff

BA Bick

Gregg Harper

Jeff Miller

Ann Sch

Tom Rice

Nick Sauer

John F. Mallego

Martha Robey

Tom Graves

Tam Cotto

Daniel P. Poe

Randy Huley

Thomas Massie

Michael P. G. AL-3

Richard Hudson

M. M. M.

TN-04

David B. M. T. C.

Chil. T. T. T.

John J. Dunsage.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

June 2, 2014

OFFICE OF  
AIR AND RADIATION

The Honorable Tom Price  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Price:

Thank you for your letter of May 22, 2014 to Administrator Gina McCarthy, requesting that the U.S. Environmental Protection Agency include a 120-day comment period on our proposed Clean Power Plan, also known as the Carbon Pollution Guidelines for Existing Power Plants. The Administrator has asked me to respond on her behalf.

As you know, the EPA conducted unprecedented outreach while developing this proposal. We met with stakeholders from around the country, including representatives from state and local governments, electric utilities, and civil society. Among the many creative ideas and constructive comments offered were requests similar to yours, to ensure that the comment period allowed the public sufficient time to provide meaningful input on this proposed rule.

Recognizing that the proposal asks for comment on a range of issues, some of which are complex and novel, the EPA has decided to propose this rule with a 120-day comment period. This will allow the EPA to solicit advice and information from the many stakeholders and citizens who we expect will be interested in this rulemaking, giving us the best possible information on which to base a final rule. The proposed rule, as well as information about how to comment and supporting technical information, are available online at: <http://www.epa.gov/cleanpowerplan>. Comments on the proposed guidelines should be identified by Docket ID No. EPA-HQ-OAR-2013-0602.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at [mackay.cheryl@epa.gov](mailto:mackay.cheryl@epa.gov) or (202) 564-2023.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. G. McCabe", is written over a horizontal line.

Janet G. McCabe  
Acting Assistant Administrator

# United States Senate

WASHINGTON, DC 20510

June 17, 2015

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy,

We are concerned that the Environmental Protection Agency (EPA) is overlooking important consequences that will result if its proposal to significantly reduce National Ambient Air Quality Standards (NAAQS) for ground level ozone is finalized. As healthcare professionals we rely upon the most accurate health data. From this vantage, we believe that the proposal's harm outweighs its claimed benefits and are concerned that it could ultimately undermine our constituents' health. In light of the significant ongoing improvements to air quality, progress that will continue even without new regulations, we encourage EPA to maintain the existing NAAQS for ground level ozone.

We support better air quality and are proud of the progress on air quality that this country has made since Congress passed the Clean Air Act. According to EPA's data, emissions of ozone precursors have been cut in half since 1980, resulting in a 33 percent drop in ozone concentrations in the U.S.<sup>1</sup> EPA projects that air quality will continue to significantly improve as states implement federal measures already on the books, including the current ozone NAAQS set in 2008. We note that EPA delayed implementing that standard from 2010-2012 while it considered replacing it with standards similar to those it is now proposing – a reconsideration that the White House ultimately abandoned in light of the high economic impact.

In the face of this continuing improvement to air quality, EPA has asserted more stringent ozone standards are necessary to protect public health. For example, EPA has claimed that reducing ozone-forming emissions will counteract asthma prevalence. However, according to the EPA and the Centers for Disease Control and Prevention, asthma prevalence has increased by 15 percent since 2001<sup>2</sup>, while ozone concentrations have decreased by 18 percent<sup>3</sup> during the same time period. This lack of correlation highlights important questions concerning the validity of EPA's conclusions.

Stakeholders have raised even more fundamental concerns regarding the science and estimated health benefits that are critical to the proposal's justification. For example, EPA

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<sup>1</sup> EPA. "National Trends in Ozone Concentrations in 1990-2013," <http://www.epa.gov/airtrends/ozone.html>.

<sup>2</sup> Centers for Disease Control and Prevention. "Trends in Asthma Prevalence 2001-2010," [http://www.cdc.gov/nchs/data/databriefs/db94\\_tables.pdf#1](http://www.cdc.gov/nchs/data/databriefs/db94_tables.pdf#1).

<sup>3</sup> EPA. "National Trends in Ozone Concentrations in 1990-2013," <http://www.epa.gov/airtrends/ozone.html>.

concluded that four controlled exposure studies<sup>4,5,6,7</sup> where healthy young adults were exposed to ozone or filtered air for 6 hours during and after which their lung function was measured support lowering the ozone standard. EPA indicated that these studies support this conclusion, because the authors found temporarily reduced lung function and more respiratory symptoms at exposures below or equal to 0.072 ppm.<sup>8</sup> Each of these studies, however, evaluated fewer than 60 people. We believe the limited number of subjects studied impacts the quality of data needed to make informed health-based determinations. Importantly, few of these subjects experienced a loss of more than or equal to 10 percent of their baseline lung function in ozone exposures below 0.080 ppm. This is EPA's current benchmark for ozone response. Furthermore, one study reports that just three subjects had more than or equal to a 10 percent response at 0.060 ppm,<sup>9</sup> and in another study, only six subjects had such a response at 0.072 ppm.<sup>10</sup> These studies also involved individuals performing nearly constant exercise for long periods of time, leading to unrealistically high exposure scenarios not experienced by most people, including children and other sensitive subgroups, in the ordinary course of their lives. Thus, these studies' findings are again far too limited to be appropriately applied to the general U.S. population, or, for that matter, to groups of sensitive individuals in the population. As a whole, these controlled exposure studies do not support the necessity for a lower standard.

EPA also bases its decision to lower the current ozone standard in part on "a large number" of new epidemiology studies investigating health effects associated with both short- and long-term ozone exposures. EPA concluded that short-term ozone exposure causes respiratory effects and is "likely" associated with cardiovascular effects and all-cause mortality, while long-term exposure is "likely" associated with respiratory morbidity and mortality.<sup>11</sup> However, EPA concluded that a number of errors in the ozone epidemiology studies limit their use for risk assessment.<sup>12</sup> For these same reasons, we believe that these studies are not adequate and do not support a lower standard.

While the benefits from this proposal are questionable, the costs are real. EPA's proposed ozone standards are so stringent that they would not be met even in rural areas like the

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<sup>4</sup> Adams, WC. 2002. "Comparison of chamber and face-mask 6.6-hour exposures to ozone on pulmonary function and symptoms responses." *Inhal. Toxicol.* 14(7):745-764.

<sup>5</sup> Adams, WC. 2006. "Comparison of chamber 6.6-h exposures to 0.04-0.08 ppm ozone via square-wave and triangular profiles on pulmonary responses." *Inhal. Toxicol.* 18(2):127-136.

<sup>6</sup> Schelegle, ES; Morales, CA; Walby, WF; Marion, S; Allen, RP. 2009. "6.6-Hour inhalation of ozone concentrations from 60 to 87 parts per billion in healthy humans." *Am. J. Respir. Crit. Care Med.* 180(3):265-272.

<sup>7</sup> Kim, CS; Alexis, NE; Rappold, AG; Kehrl, H; Hazucha, MJ; Lay, JC; Schmitt, MT; Case, M; Devlin, RB; Peden, DB; Diaz-Sanchez, D. 2011. "Lung function and inflammatory responses in healthy young adults exposed to 0.06 ppm ozone for 6.6 hours." *Am. J. Respir. Crit. Care Med.* 183:1215-1221.

<sup>8</sup> EPA. 2014. "National Ambient Air Quality Standards for Ozone (Proposed Rule)." 40 CFR Parts 50, 51, 52, 53, and 58. Accessed at <http://epa.gov/glo/actions.html#nov2014>.

<sup>9</sup> Kim *et al.* (2011).

<sup>10</sup> Schelegle *et al.* (2009).

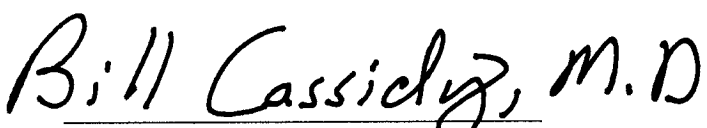
<sup>11</sup> 79 Fed. Reg. 75234 (Dec. 17, 2014)

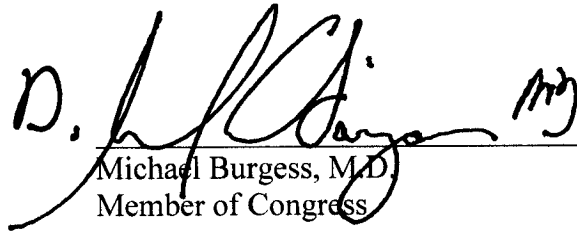
<sup>12</sup> *Id.* at 75276

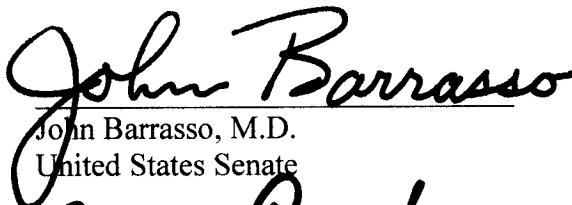
between income and public health, we are concerned that EPA's proposal will severely impact low income families, potentially forcing them to sacrifice basic human needs such as food, clothing or medical care. While cost of compliance is not a factor in determining NAAQS, we believe costs should be considered when, as here, they result in loss income associated with negative health effects.

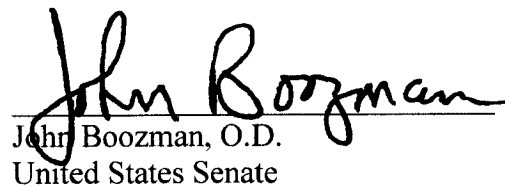
Studies show that income is a key factor in public health, a link confirmed by our first-hand experience as medical professionals caring for patients, including the low income and uninsured. As well, stakeholders have noted serious questions regarding the health benefits EPA claims to support the proposal, and we are concerned that the uncertain benefits asserted by EPA in its ozone proposal will be overshadowed by its harm to the economy and human health. In light of the long-term continuing trend towards cleaner air, as well as ongoing work by states toward further improvements under existing regulations, we encourage EPA to protect American jobs, the economy, and public health by maintaining the existing ozone NAAQS.

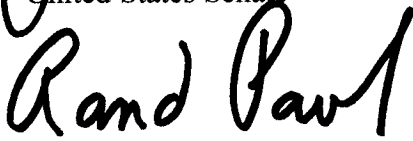
Sincerely,

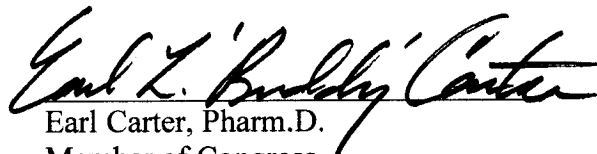
  
Bill Cassidy, M.D.  
United States Senate


  
Michael Burgess, M.D.  
Member of Congress

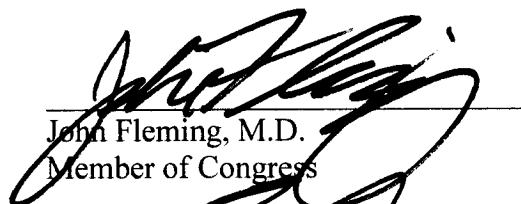
  
John Barrasso, M.D.  
United States Senate

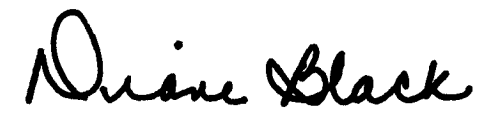
  
John Boozman, O.D.  
United States Senate


  
Rand Paul, M.D.  
United States Senate


  
Earl Carter, Pharm.D.  
Member of Congress

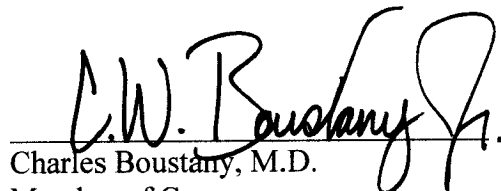
  
Phil Roe, M.D.  
Member of Congress

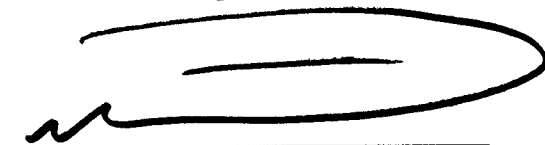
  
John Fleming, M.D.  
Member of Congress

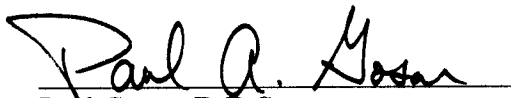
  
Diane Black, R.N.  
Member of Congress

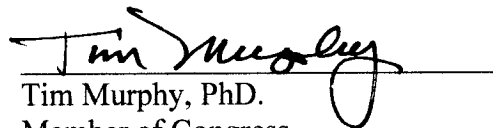
  
Ralph Abraham, M.D.  
Member of Congress

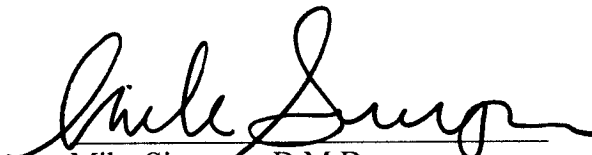
  
Brian Babin, D.D.S.  
Member of Congress


  
Charles Boustany, M.D.  
Member of Congress

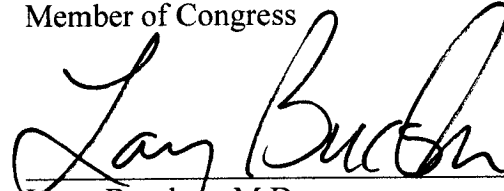
  
Scott DesJarlais, M.D.  
Member of Congress


  
Paul Gosar, D.D.S.  
Member of Congress

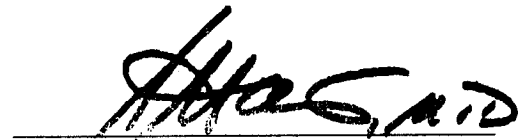
  
Tim Murphy, PhD.  
Member of Congress

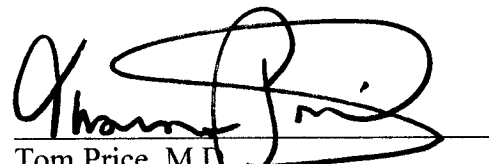
  
Mike Simpson, D.M.D.  
Member of Congress


  
Dan Benishek M.D.  
Member of Congress

  
Larry Bucshon, M.D.  
Member of Congress

  
Renee Ellmers, R.N.  
Member of Congress

  
Andy Harris, M.D.  
Member of Congress

  
Tom Price, M.D.  
Member of Congress

  
Brad Wenstrup, D.P.M.  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 23 2015

OFFICE OF  
AIR AND RADIATION

The Honorable Tom Price, M.D.  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Price:

Thank you for your letter of June 17, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy recent Ozone National Ambient Air Quality Standards (NAAQS) proposed rule. The Administrator asked that I respond on her behalf.

As you know, the EPA sets NAAQS to protect public health and the environment from six common pollutants, including ground-level ozone. The Clean Air Act requires the EPA to review these standards every five years to ensure that they are sufficiently protective. On November 25, 2014, the EPA proposed to strengthen the NAAQS for ground-level ozone, based on extensive scientific evidence about ozone's effects, including more than 1,000 new studies since the last review of the standards. This large body of scientific evidence shows that short-term exposure to ozone can cause a broad range of respiratory effects – from inflammation of the airways to respiratory effects that can lead to increased use of medication, school absences, respiratory-related hospital admissions, and emergency room visits for asthma and chronic obstructive pulmonary disease. These types of effects have been observed at ozone concentrations allowed by the current ozone standard.

The proposal that the current primary ozone standard set at a level of 0.075 ppm should be revised to provide increased public health protection is supported by the independent group of science experts who form the Clean Air Scientific Advisory Committee. The proposed standard in a range of 0.065 ppm to 0.070 ppm will increase public health protection for millions of Americans, including for “at-risk” populations such as children, older adults, and people of all ages with asthma or other lung diseases, against an array of ozone-related adverse health effects.

We have made great progress in improving air quality and public health in the United States, and it has not come at the expense of our economy. Indeed, over the past 40 years, air pollution has decreased by nearly 70 percent while the economy has tripled.

Again, thank you for your letter. I have asked my staff to place it in the docket for the rulemaking. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or at (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe". The signature is stylized with a large initial "J" and a long horizontal stroke at the end.

Janet G. McCabe  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

November 4, 2015

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy,

We write to express significant concern with the recently proposed 2016 Renewable Volume Obligations (RVO) under the Renewable Fuel Standard (RFS). The RVO as currently proposed would constitute a breach of the ethanol blendwall, which would cause adverse impacts on American consumers and the economy.

Congress expanded the RFS when it passed the Energy Independence and Security Act of 2007 (EISA). EISA mandated an annually increasing volume of biofuel to be blended and consumed in the nation's motor fuel supply, reaching 36 billion gallons of biofuels in 2022. In 2007, the market assumptions regarding the future of transportation fuels in the United States were very different from the realities of the market today. The Energy Information Administration (EIA) at the time projected motor gasoline demand to significantly rise through 2022<sup>1</sup>. Since then, EIA has revised its 2007 projection of motor gasoline in 2022 downward by 27% and projects motor gasoline demand to continue to decline through 2035<sup>1</sup>.

Increased fuel efficiency has led to shrinking gasoline demand. This current reality, coupled with an increasing biofuel blending level requirement, has exacerbated the onset of the E10 blendwall—the point at which the gasoline supply is saturated with the maximum amount of ethanol that the current vehicle fleet, marine and other small engines, and refueling infrastructure can safely accommodate. We agree with the EPA's conclusion in its first RVO proposal for 2014 and in its current proposal for 2014, 2015, and 2016 that the E10 blendwall is a binding constraint.

We are gravely concerned, however, that despite the Agency's recognition of the blendwall, the 2016 proposal acknowledges that it will be breached nonetheless. Specifically, EPA states that the 2016 RVO “includes volumes of renewable fuel that will require either ethanol use at levels significantly beyond the level of the E10 blendwall, or significantly greater use of non-ethanol renewable fuels than has occurred to date.”<sup>2</sup>

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<sup>1</sup> Energy Information Administration, *Annual Energy Outlook 2007-2015*, Reference Case Table 11

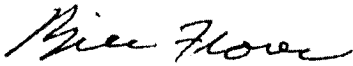
<sup>2</sup> Federal Register, Vol. 80, No. 111, Wednesday, June 10, 2015, Proposed Rules (p.33102), *EPA Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Proposed Rule*

Multiple studies have shown detrimental economic harm may be caused by breaching the E10 blendwall. A 2014 report on the RFS by the nonpartisan Congressional Budget Office concluded that requiring the volumes of biofuel in EISA, which would breach the blendwall, could increase the price of E10 gasoline by up to 26 cents per gallon<sup>3</sup>. NERA concludes in a July 27, 2015 study that "higher gasoline prices leave consumers with less disposable income<sup>4</sup>", further hindering economic growth. An RFS study by Charles River Associates concurs: "The result [of exceeding the blendwall] will be limited availability, higher consumer costs, and fewer sales of conventional transportation fuels<sup>5</sup>." This adverse economic harm falls hardest on America's lower income families.

EPA acknowledges that its 2016 RVO proposal would require significant greater use of E15 and E85 in order to meet the proposed mandate in 2016. Therefore, this proposal is problematic not only in principle, but it is also impractical since it would take decades, not months, to build out the compatible vehicle fleet and install the necessary retail infrastructure to accommodate the higher blends of ethanol. AAA calculates that only 5% of the vehicles on the road are approved to use E15<sup>6</sup> and the EIA calculates that only 6% of vehicles can use E85<sup>7</sup>. The refueling retail infrastructure is even more limited with only 2% of retail stations selling E85<sup>8</sup> and only 100 stations nationwide selling E15<sup>9</sup>.

Congress will continue its work toward a bipartisan solution to deal with the RFS. As this work continues, it is critical that EPA use its statutory authority to waive EISA's conventional biofuel volume to keep the blending requirements below the E10 blendwall, and to help limit the economic and consumer harm this program has already caused.

Sincerely,



Bill Flores  
Member of Congress



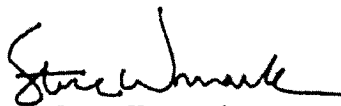
Peter Welch  
Member of Congress



Bob Goodlatte  
Member of Congress



Jim Costa  
Member of Congress



Steve Womack  
Member of Congress

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<sup>3</sup> Congressional Budget Office, *The Renewable Fuel Standard: Issues for 2014 and Beyond* (June 2014)

<sup>4</sup> NERA Economic Consulting, *Economic Impacts Resulting from Implementation of RFS2 Program* (July 2015)

<sup>5</sup> Charles River Associates, *Impact of the Blend Wall Constraint in Complying with the Renewable Fuel Standard* (November 2011)

<sup>6</sup> American Automobile Association, Press Release "New E15 Gasoline May Damage Vehicles and Cause Consumer Confusion" (December 2012)

<sup>7</sup> Energy Information Administration, *Annual Energy Outlook 2014*

<sup>8</sup> Fuels Institute, *E85: A Market Performance Analysis and Forecast* (2014)

<sup>9</sup> Renewable Fuels Association data ([www.ethanolrfa.org](http://www.ethanolrfa.org))

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Gregg Harper

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Joe Barton

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

WASHINGTON, D.C. 20460

**NOV 23 2015**

OFFICE OF  
AIR AND RADIATION

The Honorable Tom Price  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Price:

Thank you for your letter of November 4, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding your concerns that the proposed standards for 2014 - 2016 under the Renewable Fuel Standard (RFS) program fall short of the statutory targets. The Administrator has asked me to respond to you on her behalf.

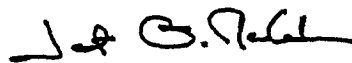
Under the Clean Air Act, as amended by the Energy Independence and Security Act of 2007, the EPA is required to set annual standards for the RFS program each year. The statute requires the EPA to establish annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuels that apply to gasoline and diesel produced or imported in a given year.

In our June 10, 2015, proposal we made a preliminary determination that the market would experience significant uncertainty if the EPA were to ignore the constraints on supply and set the standards at the statutory targets, as we expect that there would be widespread shortfalls in supply under those circumstances. The proposal sought to balance two dynamics: Congress's clear intent to increase renewable fuels over time to address climate change and increase energy security, and real-world circumstances that have slowed progress towards such goals. In order to provide the certainty that investors and others in the market need, we proposed using the tools Congress provided to make adjustments to the law's volume targets. Though we proposed using the authority provided by Congress, we nevertheless proposed standards for cellulosic biofuel, advanced biofuel, and total renewable fuel that would result in ambitious, achievable growth in biofuels.

We held a public hearing on the proposal on June 25, 2015, in Kansas City, Kansas, where over 200 people provided testimony. Further, we received over 670,000 comments from the public comment period, which closed on July 27, 2015. We are taking those comments, as well as the thoughts you provided in your letter, under consideration as we prepare the final rulemaking which we intend to finalize by November 30, 2015.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at [haman.patricia@epa.gov](mailto:haman.patricia@epa.gov) or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "J. G. McCabe", written in a cursive style.

Janet G. McCabe  
Acting Assistant Administrator